UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

09/127,112

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/127,112	07/31/98	MARCUS	

EXAMINER	ART UNIT	PAPER NUMBER
B 005	3712	16

QM32/0526

BRIAN I MARCUS
52 DARRELL PLACE APT 1
SAN FRANCISCO CA 94133

DATE MAILED: 05/26/00

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☑ Responsive to communication(s) filed on 5/10/00

☑ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☑ Claim(s) 4-21, 25, 27-30, 33-52 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
☑ Claim(s) 49-52 is/are allowed.
☑ Claim(s) 4-21, 25, 27-30, 33-48 is/are rejected.
☐ Claim(s) _____ is/are objected to.
☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
☐ The specification is objected to by the Examiner.
☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.
☐ received in Application No. (Series Code/Serial Number) _____.
☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☑ Notice of Reference Cited, PTO-892
☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
☐ Interview Summary, PTO-413
☐ Notice of Draftperson's Patent Drawing Review, PTO-948
☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

★ U.S. GPO: 1998-404-496/40517

1. Applicant's arguments with respect to claims 4-21, 25, 27-30 and 33-52 regarding the effective filing date of the application and that of the reference of Gilboa have been considered resulting in the withdrawal of finality in the previous office action.

2. Claims 49-52 are allowed.

3. Applicant's arguments from the amendment and response filed 2/29/2000, paper #12, with respect to claims 4-21, 25, 27-30 and 33-48 have been reconsidered but are moot in view of the new ground(s) of rejection.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

5. Claims 4-9, 11-13, 16-18, 20, 21, 25, 27-30, 33, 39 and 46-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Levy et al (5,190,285).

Levy et al discloses an object recognition system for interacting with a computer. The system comprises a plurality of hand-held objects and a device including: a microprocessor; a visual display capable of providing an interactive environment presenting a visual event requiring a user to cognitively react by selecting and manipulating one or more hand-held objects in response to said event; a circuit for identifying said selected and manipulated one or more hand-held objects,

said visual display further providing a response based on said selected and manipulated one or more hand-held objects. Levy's system comprises a platform for said hand-held objects. See Fig. 1, Summary, col. 2 lns. 62-66, col. 4 lns. 38-43 and ln. 54- col. 5 ln. 26, cols. 7 and 8 and col. 9 lns. 31-36.

6. Claims 4-8, 12, 13, 16, 17 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Chan (5,088,928) made of record in paper #8 . See Figs 3-5, col. 7 lns 63-68 and col 8.

7. Claims 4-8, 12, 13, 16, 17, 20, 21, 27-30, 33-36, 39, 40-43, and 46-48 are rejected under 35 U.S.C. 102(e) as being anticipated by Collins et al (5,855,483). See Figs. 20, 23 and 25 and the associated discussion of said figures.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 10 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levy et al in view of Whitfield, made of record in a previous office action.

10. Claims 9, 10, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chan in view of Whitfield, made of record in a previous office action.

11. Claims 9, 10, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collins et al in view of Whitfield, made of record in the previous office action.

Levy et al, Chan and Collins et al disclose an object recognition system with a variety of hand-held objects including a visual aspect. Levy et al include alphanumeric characters. Whitfield teaches the inclusion of alphanumeric and braille characters on hand-held objects. It would have been obvious to one of ordinary skill in the art, in view of the teaching of Whitfield and further in view of conventional practice for children's playthings and the nature of the games disclosed in the above discussed prior art, to include alphanumeric and braille characters on the objects of Chan or Collins et al, and specifically braille on the objects of Levy et al.

12. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levy et al. The objects of Levy et al have a visual aspect and a characteristic representative of said visual aspect. Levy et al includes a wire network underneath the platform for detecting said characteristic. In view of col. 2 lns 62-66, it would have been obvious to one of ordinary skill in the art that a wire grid pattern would be included under some embodiments of the Levy et al device in view of many conventional games having a grid pattern playing surface.

13. Claims 37, 38, 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collins et al. It would have been obvious to one of ordinary skill in the art in view of conventional practice that the conventional Collins et al computer could programmed from a remote location.

14. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

15. Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. A missing bracket makes the amended claim indefinite.

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Rovnak whose telephone number is (703) 308-3087.

May 22, 2000

Kien T. Nguyen
Primary Examiner